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ATTORNEY DOCKET NO. CONFIRMATION NO. APPLICATION NO. FILING DATE FIRST NAMED INVENTOR 10/005,699 12/07/2001 T. Anthony Don Michael DON MICHAEL=27 10/19/2004 **EXAMINER** 1444 7590 HO, UYEN T BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW ART UNIT PAPER NUMBER SUITE 300 WASHINGTON, DC 20001-5303 3731

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Application No. Application No. Application No. DON MICHAEL, T. ANTHONY							
Examiner (Jackie) Tan-Uyen T. Ho 3731 Art Unit 4731			Application	n No.	Applicant(s)		
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be variable under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be limely filled after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thry (50) days, a reply within the statutory minimum of thing (20) days will be considered timely. If the period for reply specified above is loss than thry (50) days, a reply within the statutory minimum of thing (20) days will be considered timely. If the period for reply specified above is loss than thry (50) days, a reply within the statutory minimum of thing (20) days will be considered timely. If the period for reply specified above is loss than thry (50) days, a reply within the statutory minimum of thing (20) days will be considered timely. If the period for reply specified shows the property of the statutory minimum of thing (20) days will be considered timely. If the period for reply specified shows the property of the statutory minimum of thing (20) days will be considered timely. If the period for reply specified timely (20) days will be considered timely. Application is specified above the mailing date of this communication, which is communication. If the period for reply specified is the statutory minimum of thing (20) days will be considered timely. If the period for reply specified is the statutory minimum of thing (20) days will be considered timely. If the period for reply specified is the statutory minimum of thing (20) days will be considered timely. If the period for reply selected to the statutory minimum of thing (20) days will be considered timely. If the period for reply selected to the statutory minimum of thing (20) days will be considered timely. If the period for reply selected to the statutory			10/005,69	9	DON MICHAEL, T. A	ANTHONY	
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Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 4) Interview Summary (PTO-413) Paper No(s)/Mail Date Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152) Paper No(s)/Mail Date	1) 🔀 Notic 2) 🔲 Notic 3) 🔲 Inforr	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948 mation Disclosure Statement(s) (PTO-1449 or PTO/S	•	Paper No(s)/Ma 5) Notice of Inform	il Date	52)	

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DETAILED ACTION

Response to Arguments

Applicant's arguments filed 7/19/2004 have been fully considered but they are 1. not persuasive. The functional limitations "high compliance" and "low compliance" do not impose any structural limitations on the claims distinguishable over the Nap et al. in view of Sahota's device. Since each balloon of Nap et al. is inherently higher compliance than a certain balloon in the art and lower compliance than a certain balloon in the art. The broadest reasonable interpretation of "high compliance" balloon or "low compliance" balloon encompasses a balloon being made from any material that is not a highest or lowest compliance material. Any angioplasty balloon or occluding balloon in the art is inherently being made from a material that is not the highest or lowest compliance material. Therefore, each balloon of Nap et al. is inherently higher compliance than a certain balloon to meet claimed limitation "high compliance blocking balloon" and lower compliance than a certain balloon to meet claimed limitation "low compliance angioplasty balloon." Furthermore, the present application does not discloses a material of high or low compliance to make it different from the balloon of Nap et al. or other balloon.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nap et al. (5,971,955) in view of Sahota (5,160,321). Nap et al. disclose a balloon catheter for treating stenotic regions including all the limitations of the claims except for a presence of inlet and outlet openings. Sahota disclose a balloon catheter for treating stenotic regions including inlet and outlet openings (figure 8) allow blood to perfuse through and bypass the dilation balloon so as to maintain blood flow during treatment. Therefore, it would have been obvious to one having ordinary skill in the time the invention was made to employ inlet and outlet openings as disclose by Sahota into Nap et al.'s catheter in order to allow blood to perfuse through and bypass the dilation balloon so as to maintain blood flow during treatment.

Conclusion

- 4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stack et al. (6,165,196) disclose a perfusion occlusion apparatus. Kohish et al. disclose angioplasty/blockage balloon being made from low or high compliance material.
- 5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is

(703) 306-3421. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, ANHTUAN or NGUYEN can be reached on 703-308-2154. The fax phone

number for the organization where this application or proceeding is assigned is 703-

872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

(Jackie) Tan-Uyen T. Ho

Patent Examiner

Art Unit 3731

October 7, 2004

ANHTUAN T. NGUYEN PRIMARY EXAMINER

10/14/04